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EXAMINER	
HAVAN, HUNG T	

ART UNIT	PAPER NUMBER
2128	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/585,409	URANO, YASUNORI	
	Examiner	Art Unit	
	HUNG HAVAN	2128	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 April 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendments

Claim status

1. In the amendments filed 04/16/2010 the following occurred: Claims 1-7 were amended.

Claim 8 was canceled. Claims 1-7 are currently pending in Instant Application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. **Claims 1-7** are rejected under 35 U.S.C. 103(a) as being unpatentable over ***Kawai et al (US Pat. No. 5,313,395)(hereinafter as Kawai)*** in view of ***Santori et al (US Pat. No. 7,076,411 B2)(hereinafter as Santori)***.

Kawai discloses: As per **Claim 1**. (Currently Amended) An engine transition test instrument comprising:

a virtual engine tester for simulating a transition state of a virtual engine in which a rotational speed or torque of the virtual engine changes with time **(col. 6, lines 46-57, fig. 3 and fig. 4, teaches rotating speed is measured and modeled)**; and

an actual engine transition tester for conducting actual transition testing using an actual engine; and

an actual controller for controlling the actual engine **(col. 3, lines 65 to col. 4, line 5 and fig. 1, teaches a rotating speed adjusting means to adjust the engine speed of the internal combustion engine and a control means which calculates a control value.)**,

wherein the virtual engine tester comprises:

a simulator for simulating the behavior of the virtual engine by creating a transition engine model based on data obtained by driving the actual engine while changing a value of at least one controlled factor **(col. 5, lines 46-59 and col. 6, lines 35-42 and lines 46-59, teaches an autoregressive moving average model is utilized for the model of a system which controls the idling speed of the engine. The constants for the model are determined experimentally by means of a step response. It would have been obvious to one of ordinary skill in the art to drive an engine to gather experimental data for better accuracy.)**;

a virtual controller that emulates the actual controller and supplies an engine control signal to the tester simulator**(col. 3, lines 66 to col. 4, line 5 and col. 19, lines 30-35, teaches a control means)**, and

the actual engine transition tester comprises a means for switching to the engine control signal output from the virtual controller **(i.e. dynamic model)** from a corresponding portion of an engine control signal output from the actual controller for

controlling the actual engine, and supplying a switched signal to the actual engine **(col. 3, lines 26-37, col. 21, lines 60-63 and col. 23, lines 57-62, teaches a dynamic model to control the idling speed of an internal combustion engine.)**.

Kawai does not expressly disclose simulation means for simulating behavior of an engine. Santori, however, discloses simulation means for simulating behavior of an engine **(col.4 47-52, 58-63 and fig. 2A, teaches simulation of automobile coupled to control unit)**.

Kawai and Santori are analogous art because they are from similar problem solving area of designing control unit. At the time of the invention it would have been obvious to person of ordinary skill in the art to utilize the principles of testing control unit using hardware-in-the-loop simulation as discussed by Santori to test the unit to control idling speed of an engine for purpose of testing response of a control unit **(Santori: col. 58-64)**.

Santori discloses: As per **Claim 2**. (Currently Amended) The engine transition test instrument according to claim 1, wherein the virtual engine tester further comprises a control value operation means for supplying a control value for a controlled factor to the virtual controller **(see fig. 10, item 427 and 429, col. 5, lines 17-26, col. 21, lines 61-67, target device may execute control algorithm to control physical system)**, to cause simulation results by the simulator to be displayed on display means **(see fig. 5, items 310, 312, and 314, col. 17, lines 52-59, teaches a GUI to control a hardware-in-the-loop simulation)**.

Kawai discloses: As per **Claim 3**. (Currently Amended) The engine transition test instrument according to claim 1, wherein the actual controller is configured so as to perform feed back

control with referencing the output value of the actual engine **(col. 3, line 60 to col. 4, line 5 and fig. 1, teaches adjusting rotating speed of internal combustion engine using a feedback loop)** and the instrument comprises a means for correcting the output value from the actual engine that has changed when the engine control signal output from the virtual controller was supplied to the actual engine to a value before such a change was made, and feeding back the corrected value to the actual controller **(col. 4, lines 5-26, teaches control means is provided with first control value setting means which sets a state variable according to detected rotating speed by previous operation timing. A selecting means is disclosed to select the desired first control value or second control value)**.

Kawai discloses: As per **Claim 4**. (Currently Amended) An engine transition test method comprising:

a first step of creating a transition engine model based on data obtained by driving an actual engine while changing a value of at least one controlled factor in a transition state in which an engine rotational speed or torque changes with time **(col. 5, lines 46-59 and col. 6, lines 35-42 and lines 46-59, teaches an autoregressive moving average model is utilized for the model of a system which controls the idling speed of the engine. The constants for the model are determined experimentally by means of a step response. It would have been obvious to one of ordinary skill in the art to drive an engine to gather experimental data for better accuracy.)**;

a second step of emulating controlling the actual engine, generating an engine control signal based on a control value set for the controlled factor **(col. 3, lines 66 to col.**

4, line 5 and col. 19, lines 30-35, teaches a control means), and operating the transition engine model as a virtual engine; and

a third step of switching to the engine control signal generated in the second step from a corresponding portion of an engine control signal output from the means for controlling the actual engine, and supplying the switched signal to the actual engine **(col. 3, lines 26-37, col. 21, lines 60-63 and col. 23, lines 57-62, teaches a dynamic model to control the idling speed of an internal combustion engine.)**.

Kawai does not expressly disclose operating the transition engine model as a virtual engine. Santori, however, discloses operating the transition engine model as a virtual engine **(col.4 47-52, 58-63 and fig. 2A, teaches simulation of automobile coupled to control unit)**.

Kawai and Santori are analogous art because they are from similar problem solving area of designing control unit. At the time of the invention it would have been obvious to person of ordinary skill in the art to utilize the principles of testing control unit using hardware-in-the-loop simulation as discussed by Santori to test the unit to control idling speed of an engine for purpose of testing response of a control unit **(Santori: col. 58-64)**.

Kawai discloses: As per **Claim 5**. (Currently Amended) The engine transition test method according to claim 4, wherein the second step is repeated while changing the control value **(col. 3, lines 66 to col. 4, line 5 and col. 19, lines 30-35 fig. 1, teaches a control means which is in a loop that controls an engine. The loop allows the control value to be adjusted according to the state of the engine)**, and the third step is performed when the output value from the virtual engine satisfies objective performance **(col. 5, lines 39-45)**.

Kawai discloses: As per **Claim 6**. (Currently Amended) The engine transition test method according to claim 4, wherein the output value from the actual engine that has changed when the engine control signal generated in the second step was supplied to the actual engine **(col. 5, lines 39-45)** is corrected to a value before such a change was made, and the corrected value is fed back to the actual controller **(col. 1 61-65, col. 3, lines 66 to col. 4, line 5 and col. 19, lines 30-35 fig. 1, teaches a control means which is in a loop that controls an engine. The loop allows the control value to be adjusted according to the state of the engine)**.

Kawai discloses: As per **Claim 7**. (Currently Amended) A computer readable medium having instructions for causing an information processing system to perform steps comprising:

creating a transition engine model based on data obtained by driving an actual engine while changing a value of at least one controlled factor in a transition state in which an engine rotation speed or torque changes with time **(col. 5, lines 46-59 and col. 6, lines 35-42 and lines 46-59, teaches an autoregressive moving average model is utilized for the model of a system which controls the idling speed of the engine. The constants for the model are determined experimentally by means of a step response. It would have been obvious to one of ordinary skill in the art to drive an engine to gather experimental data for better accuracy.)**;

emulating an actual controller that controls an actual engine;

generating an engine control signal based on a control value set for the controlled factor **(col. 3, lines 66 to col. 4, line 5 and col. 19, lines 30-35, teaches a control means);** and

operating the transition engine model as a virtual engine; and

switching to the engine control signal generated in the second step from a corresponding portion of an engine control signal output from the actual controller, and thereby supplying the switched signal to the actual engine **(col. 3, lines 26-37, col. 21, lines 60-63 and col. 23, lines 57-62, teaches a dynamic model to control the idling speed of an internal combustion engine.)**.

Kawai does not expressly disclose a computer program that realizes, by being installed on an information processing system and operating the transition engine model as a virtual engine. Santori, however, discloses a computer program that realizes, by being installed on an information processing system **(see fig. 1, computer system)** and operating the transition engine model as a virtual engine **(col.4 47-52, 58-63 and fig. 2A, teaches simulation of automobile coupled to control unit)**.

Kawai and Santori are analogous art because they are from similar problem solving area of designing control unit. At the time of the invention it would have been obvious to person of ordinary skill in the art to utilize the principles of testing control unit using hardware-in-the-loop simulation as discussed by Santori to test the unit to control idling speed of an engine for purpose of testing response of a control unit **(Santori: col. 58-64)**.

Response to Arguments

3. Applicants' arguments filed 04/16/2010 have been fully considered but they are not persuasive.

3.1 Applicants' amendments to claims are sufficient to overcome 35 U.S.C § 101 rejections. Accordingly, the rejection is withdrawn.

3.2 Applicants' amendments to claims are sufficient to overcome 35 U.S.C § 112 2nd rejections. Accordingly, the rejection is withdrawn.

3.3 **Applicants Argue:**

Kawai does not suggest a set of transition control map values in an ECU which will remain unaltered, and a set of transition control values received by a virtual ECU which will be simulated and modeled to meet certain performance objectives. That is, Kawai offers no suggestion of holding outputs from an actual ECU as control values that are not examined and not changed, and of allowing outputs from a virtual ECU to be examined and to be changed.

3.4 **Examiner Response:**

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies **(i.e., a set of transition control map values in an ECU, a set of transition control values received by a virtual ECU)** are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

3.5 **Applicants Argue:**

Kawai does not suggest Applicant's means for switching.

3.6 **Applicants Argue:**

Kawai col. 4, lines 22-26, teaches means for switching because it recites "a selecting means which selects either the aforementioned first control value setting means or the aforementioned second control value setting means according to the state of the aforementioned internal combustion engine." See also figure 1, selection means.

Conclusion

4. All claims are rejected.

5. The Instant Application is not currently in condition for allowance.

THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Hung Havan whose telephone number is (571) 270-7864. The examiner can normally be reached on Monday thru Friday, 9am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kamini Shah can be reached on 571-272-2279. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/H. H./

Examiner, Art Unit 2128

/Kamini S Shah/

Supervisory Patent Examiner, Art Unit 2128